

NANCY SWEENEY
CLERK DISTRICT COURT
FILED BY **C COLBERT**
DEPUTY

2013 SEP 27 P 1:39

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY
Before THE HONORABLE MIKE MENAHAN, Presiding Judge

THE STATE OF MONTANA,

Plaintiff,

-vs-

CYNTHIA MAE HENDERSON,

Defendant.

No. ADC 2012-122

JUDGMENT

An Information was filed charging the above-named defendant with the offense of INSURANCE FRAUD/THEFT, a felony, in violation of Sections 33-1-1201(1)-(2) and 45-6-301(6)(a), MCA, alleged to have occurred from on or about May 1, 2007, until on or about June 25, 2009. On December 5, 2012, the defendant appeared in open court with his attorney, Jennifer C. Kaleczyc, and pleaded not guilty to the offense charged.

On May 29, 2013, a hearing was held for the purpose of entering a change of plea at which the defendant appeared in open court with her attorney, Torger Oaas, and the State was represented by Mike Winsor, Special Deputy Lewis and Clark County Attorney, Special Assistant Attorney General for the State of Montana. The defendant advised the Court that she was prepared to enter a guilty plea to the offense charged in the Information, and presented to the Court a document entitled, Acknowledgment of Waiver of Rights by Plea of Guilty. The Court determined from the defendant and her attorney that the defendant was entering her plea knowingly and voluntarily

1 and that she was aware of her constitutional and statutory rights that she would waive by entering
2 a plea of guilty. The Court determined that there was a factual basis to believe that the defendant
3 had committed the offense charged and accepted the defendant's guilty plea. The defendant
4 waived her right to have a pre-sentence investigation report prepared by the Montana Department
5 of Corrections prior to sentencing.

6 A sentencing hearing was held on September 25, 2013, at which the defendant was present with
7 her attorney, Torger Oaas, and the State was represented by Mike Winsor, Special Deputy Lewis
8 and Clark County Attorney, Special Assistant Attorney General for the State of Montana. The
9 Court, having considered the testimony and evidence presented, and the arguments of counsel, and
10 being fully advised in the premises, entered the following JUDGMENT AND COMMITMENT:

11 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that for the felony offense of
12 INSURANCE FRAUD/THEFT, a felony, imposition of sentencing of the defendant is deferred for
13 a period of six (6) years, upon the following conditions:

14 1. The defendant shall serve one (1) day in the Lewis and Clark County Jail. The defendant is
15 granted one (1) day credit for time served prior to sentencing (November 28, 2012, in Blaine
16 County, Montana).

17 2. The defendant shall pay the mandatory surcharges of \$80.00.

18 3. The defendant shall pay all costs of any future incarceration and medical costs while
19 incarcerated pursuant to Section 7-32-2245, MCA.

20 4. The defendant shall submit to DNA testing, pursuant to Section 44-6-103, MCA.

21 5. The defendant shall not associate with probationers, parolees, prison inmates, or persons in
22 the custody of any law enforcement agency without prior approval from her supervising officer.
23 The defendant shall not associate with persons as ordered by the Court or BOPP.

24 6. The defendant shall not enter any casinos and/or bars.

25 7. The defendant shall not gamble or play any games of chance.

26 8. The defendant shall be placed under the supervision of the Montana Department of
27 Corrections, subject to all regulations and rules of the Adult Probation and Parole Bureau.

1 9. The defendant shall obtain prior written approval from her supervising officer before taking
2 up residence in any location. The defendant shall not change her place of residence without first
3 obtaining written permission from her supervising officer or the officer's designee. The defendant
4 shall make the residence open and available to an officer for a home visit or for a search upon
5 reasonable suspicion. The defendant shall not own dangerous or vicious animals and shall not use
6 any device that would hinder an officer from visiting or searching the residence.

7 10. The defendant shall obtain permission from her supervising officer or the officer's designee
8 before leaving her assigned district.

9 11. The defendant shall seek and maintain employment or maintain a program approved by the
10 Board of Pardons and Parole or the supervising officer. Unless otherwise directed by her
11 supervising officer, the defendant shall inform her employer and any other person or entity, as
12 determined by the supervising officer, of her status on probation, parole or other community
13 supervision.

14 12. Unless otherwise directed, the defendant shall submit written monthly reports to her
15 supervising officer on forms provided by the probation and parole bureau. The defendant shall
16 personally contact her supervising officer or designee when directed by the officer.

17 13. The defendant is prohibited from using, owning, possessing, transferring, or controlling any
18 firearm, ammunition (including black powder), weapon, or chemical agent such as oleoresin
19 capicum (bear) or pepper spray.

20 14. The defendant shall obtain permission from her supervising officer before engaging in a
21 business, purchasing real property, purchasing an automobile or incurring a debt.

22 15. Upon reasonable suspicion that the defendant has violated the conditions of supervision, a
23 probation and parole officer may search the person, vehicle, and residence of the defendant, and
24 the defendant shall submit to such search. A probation and parole officer may authorize a law
25 enforcement agency to conduct a search, provided the probation and parole officer determines
26 reasonable suspicion exists that the defendant has violated the conditions of supervision.

27 16. The defendant shall comply with all municipal, county, state, and federal laws and
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ordinances and shall conduct herself as a good citizen. The defendant shall, within 72 hours, report any arrest or contact with law enforcement to her supervising officer or designee. The defendant shall be cooperative and truthful in all communications and dealings with any probation and parole officer and with any law enforcement agency.

17. The defendant is prohibited from using or possessing alcoholic beverages and illegal drugs. The defendant is required to submit to bodily fluid testing for drugs or alcohol on a random or routine basis and without reasonable suspicion.

18. The defendant shall pay all fines, fees, and restitution ordered by the sentencing Court.

19. The Court found the defendant able to pay restitution during the pendency of her sentence and ordered the defendant to pay \$22,602.24, plus an administrative fee of \$2,260.22, and probation/parole supervisory fees (Section 46-23-1031, MCA) in the form of a money order or a cashier's check containing a reference to her full name and court cause number, to be mailed to the following address: DEPARTMENT OF CORRECTIONS - COLLECTIONS UNIT, PO BOX 201350, HELENA, MT 59620 (technicians may be reached at toll free number 1-800-801-3478).

(The defendant is advised by the Department that no receipt will be provided to her, so it is imperative that she retain a carbon copy of the money order/cashier's check). Should the defendant be placed in a state institution, she shall forfeit one-third of all income toward her restitution obligation. All restitution shall be made payable to Fire Insurance Exchange and mailed by the Department to Farmers Insurance Document Center, c/o Cash Receipts, PO Box 268994, Oklahoma City, OK 73126-8994, with the claim number of 8002309388 accompanying the payment.

The defendant shall pay the remainder of her financial obligation, i.e., surcharges, costs and fines, to the Court's restitution finance officer located in the Courthouse, 228 Broadway, Helena, MT 59601 (406-447-8231, telephone), on a schedule which she shall arrange with the officer. The defendant shall advise the officer of any factors which may affect her ability to pay her financial obligation or the officer's ability to contact her.

Pursuant to Section 46-18-116, MCA, the parties are advised that if a written

1 judgment and an oral pronouncement of sentence or other disposition conflict, the
2 defendant or the prosecutor in the county in which the sentence was imposed may,
3 within 120 days after filing of the written judgment, request that the court modify the
4 written judgment to conform to the oral pronouncement. The court shall modify the
5 written judgment to conform to the oral pronouncement at a hearing, and the
6 defendant must be present at the hearing unless the defendant waives the right to be
7 present or elects to proceed pursuant to Section 46-18-115, MCA. The defendant and
8 the prosecutor waive the right to request modification of the written judgment if a
9 request for modification of the written judgment is not filed within 120 days after the
10 filing of the written judgment in the sentencing court.

11 In imposing the foregoing sentence, the Court considered the parties' briefing and hearing on
12 the restitution issues held prior to sentencing, and the parties' plea agreement.

13 If the defendant has not already done so, she shall report to the Lewis and Clark County Jail for
14 the purpose of getting processed (booked/fingerprinted).

15 Any instrumentalities of the crime or contraband seized during this investigation are forfeited
16 and shall be disposed of as provided by law.

17 Any bond posted in this matter is exonerated.

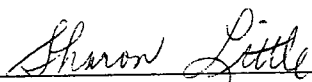
18 Done in open court the 25th day of September, 2013.

19 DATED at Helena, Montana, this 27th day of September, 2013.

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22 MIKE MENAHAN, DISTRICT COURT JUDGE

23 **CERTIFICATE OF SERVICE**

24 The undersigned certifies that on the 27 day of September, 2013, a copy
25 of the foregoing was served upon the defendant by mailing a copy of the same, by
26 United States mail, postage prepaid, to defendant's counsel of record, addressed as
27 follows: TORGER OAAS, Attorney at Law, 618 West Main, Suite 201, PO Box 76,
28 Lewistown, MT 59457.

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